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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

PixFusion LLC,	:	
	:	Civil Action No. 1:08-01202-LBS (AJP)
Plaintiff/Counterclaim Defendant,	:	
	:	<b>REPLY TO COUNTERCLAIMS</b>
v.	:	
	:	ECF CASE
JibJab Media Inc.,	:	ELECTRONICALLY FILED
	:	
Defendant/Counterclaim Plaintiff.	:	JURY TRIAL DEMANDED

Plaintiff PixFusion LLC ("PixFusion"), by its attorneys, Day Pitney LLP, hereby files this Reply to Counterclaims in response to the counterclaims filed by Defendant JibJab Media Inc. ("JibJab") and states as follows:

### **COUNTERCLAIMS**

1. Paragraph 44 of the Answer, Affirmative Defenses, and Counterclaims states legal conclusions to which no response is necessary. To the extent a response may be required, PixFusion admits JibJab's Answer, Affirmative Defenses, and Counterclaims asserts counterclaims against PixFusion, and, with respect to the other allegations in Paragraph 44, Plaintiff denies the same.

### **THE PARTIES**

2. PixFusion admits JibJab has a principal place of business in Venice, California, and, with respect to the other allegations in Paragraph 45 of the Answer, Affirmative Defenses, and Counterclaims, Plaintiff is without information sufficient to form a belief as to the truth of the other allegations and, therefore, denies the same.

3. PixFusion admits the allegations set forth in Paragraph 46 of the Answer, Affirmative Defenses, and Counterclaims.

### **JURISDICTION AND VENUE**

4. PixFusion admits this Court has subject matter jurisdiction over PixFusion's action. With respect to the other allegations in Paragraph 47 of the Answer, Affirmative Defenses, and Counterclaims, those allegations state legal conclusions to which no response is necessary. To the extent a response may be required, PixFusion is without information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

5. PixFusion admits PixFusion resides and may be found in New York, New York. With respect to the other allegations set forth in Paragraph 48 of the Answer, Affirmative Defenses, and Counterclaims, PixFusion denies the same.

6. PixFusion admits the allegations set forth in Paragraph 49 of the Answer, Affirmative Defenses, and Counterclaims.

7. PixFusion admits Plaintiff's Complaint alleges JibJab infringes U.S. Patent No. 6,351,265 and JibJab's Answer, Affirmative Defenses, and Counterclaims alleges JibJab does not infringe U.S. Patent No. 6,351,265 and alleges some or all of the claims of U.S. Patent No. 6,351,265 are invalid. With respect to the other allegations set forth in Paragraph 50 of the Answer, Affirmative Defenses, and Counterclaims, those allegations state legal conclusions to which no response is necessary. To the extent a response may be required, PixFusion denies the same.

#### **COUNTERCLAIM I - INFRINGEMENT**

8. In response to the allegations in Paragraph 51 of the Answer, Affirmative Defenses, and Counterclaims, which re-alleges and incorporates by reference all allegations set forth in Paragraphs 44 through 50 of the Answer, Affirmative Defenses, and Counterclaims, PixFusion repeats and re-alleges its reply to those paragraphs as found in Paragraphs 1-7 above as if fully set forth herein.

9. PixFusion denies the allegations set forth in Paragraph 52 of the Answer, Affirmative Defenses, and Counterclaims.

10. PixFusion denies the allegations set forth in Paragraph 53 of the Answer, Affirmative Defenses, and Counterclaims.

#### **COUNTERCLAIM II - INVALIDITY**

11. In response to the allegations in Paragraph 51 of the Answer, Affirmative Defenses, and Counterclaims, which re-alleges and incorporates by reference all allegations set forth in Paragraphs "43 through 52" of the Answer, Affirmative Defenses, and Counterclaims, PixFusion repeats and re-alleges its reply to those paragraphs as found in Paragraphs 1-10 above as if fully set forth herein. With respect to the incorporation of Paragraph 43, which states JibJab's Fifth Affirmative Defense, PixFusion denies the allegations contained in Paragraph 43.

12. PixFusion denies the allegations set forth in Paragraph 55 of the Answer, Affirmative Defenses, and Counterclaims.

13. PixFusion denies the allegations set forth in Paragraph 56 of the Answer, Affirmative Defenses, and Counterclaims.

**AFFIRMATIVE DEFENSE**

14. The Counterclaims fail to state a claim upon which relief may be granted.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff PixFusion prays for the following relief:

- A. A dismissal of JibJab's counterclaims; and
- B. For such other and further relief as the court deems just and proper

DATED: July \_\_, 2008

Day Pitney LLP  
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**CERTIFICATE OF SERVICE**

The undersigned certifies the foregoing Reply to Counterclaims was submitted to the Court's CM/ECF system on July \_\_, 2008, for service through the Court's Electronic Transmission Facilities upon the following:

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